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DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2017-0029]

Privacy Act of 1974; System of Records

AGENCY: Department of Homeland Security, Privacy Office.

ACTION: Notice of New Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) proposes to establish a new DHS system of records titled “DHS/FEMA-014 Hazard Mitigation Planning and Flood Mapping Products and Services Records System of Records.” This system of records notice replaces the current DHS system of records titled, “Letter of Map Amendment (LOMA), DHS/FEMA/NFIP/LOMA-1” system of records, 71 FR 7990 (Feb. 15, 2006). This new system of records notice describes FEMA’s collection and maintenance of records on individuals who are involved in the creation and updating of flood maps, individuals requesting information on or purchasing flood map products or services, and individuals involved with hazard mitigation planning. This newly established system will be included in the Department of Homeland Security’s inventory of record systems.

DATES: Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This new system will be effective upon publication. New or modified routine uses are effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by docket number DHS-2017-0029 by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 202-343-4010.
- Mail: Philip S. Kaplan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528-0655.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: William Holzerland, (202) 212-7719, Senior Director for Information Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, D.C. 20472. For privacy questions, please contact: Philip S. Kaplan, (202) 343-1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528-0655.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. sec. 552a, the Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) proposes to establish a new DHS system of records titled “DHS/FEMA-014 Hazard Mitigation Planning and Flood Mapping Products and Services Records System of Records.” This replaces an existing DHS/FEMA system of records, titled “Letter of Map Amendment (LOMA), DHS/FEMA/NFIP/LOMA-1” system of records, 71 FR 7990 (Feb. 15, 2006). FEMA administers the National Flood Insurance Program (NFIP) and Hazard Mitigation Planning Programs. The Robert T. Stafford Disaster Relief and

Emergency Assistance Act, as amended by the Disaster Mitigation Act of 2000, provides the legal basis for FEMA and other government agencies to undertake a risk-based approach to reducing losses from natural hazards through mitigation planning. The Federal Insurance and Mitigation Administration's (FIMA) Mitigation Planning Program oversees and provides guidance to state, tribal, and local governments that are required to develop a FEMA-approved, risk-based hazard mitigation plan. This plan is a precondition for receiving non-emergency disaster assistance from the Federal Government, including funding for flood hazard mitigation projects. FEMA tracks the implementation of state, tribal, and local government hazard mitigation plans to help communities across the Nation identify new mitigation strategies, improve planned mitigation actions, and advance planned actions.

The National Flood Insurance Act of 1968, as amended (NFIA) (42 U.S.C. sec. 4001 et seq.) establishes that FEMA will provide flood insurance in communities that adopt and enforce floodplain management ordinances that meet the minimum NFIP requirements. The law requires FEMA to provide and maintain flood maps to support floodplain management and insurance activities. FEMA's regulations implementing the NFIA, including the flood mapping program, may be found in 44 CFR parts 59-72.

The NFIA requires insurance companies that write flood insurance policies on behalf of the NFIP to use FEMA flood maps to determine insurance rates. These flood maps consist of zones or areas. Flood hazard areas identified on FEMA flood maps are identified as a Special Flood Hazard Area (SFHA). SFHA are defined as the area that will be inundated by a flood event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent-annual-chance flood is also referred to as the base flood or

100-year flood. SFHAs are labeled as Zone A, Zone AO, Zone AH, Zones A1-A30, Zone AE, Zone A99, Zone AR, Zone AR/AE, Zone AR/AO, Zone AR/A1-A30, Zone AR/A, Zone V, Zone VE, and Zones V1-V30. Moderate flood hazard areas, labeled Zone B or Zone X (shaded) are also shown on the maps, and are the areas between the limits of the base flood and the 0.2-percent-annual-chance (or 500-year) flood. The areas of minimal flood hazard, which are the areas outside the SFHA and higher than the elevation of the 0.2-percent-annual-chance flood, are labeled Zone C or Zone X (unshaded). Members of the public view and review these FEMA maps and related products online free of charge to understand a property's flood risk. In addition, community officials must use these maps to manage development in flood-prone areas. FEMA performs the following tasks in support of flood map productions: 1) tracks requests for FIRM updates from community officials; 2) schedules and tracks progress and quality of floodplain studies; 3) conducts community outreach and coordinates with communities and the public on the floodplain study process; 4) collects information from communities and other organizations such as levee owners; 5) provides public review of the proposed flood hazard data resulting from the studies; 6) adjudicates administrative appeals to the studies; and 7) coordinates and tracks the request and processing of flood map revisions and updates.

The administrative appeals process referenced above satisfies due process obligations owed to affected communities and property holders. This requirement includes making available to the public the relevant data documenting the scientific and technical basis of the maps and documenting the community and public coordination processes associated with the development and publication of the maps. The NFIA also

requires communities to adopt these maps as the basis for their land use regulations.

FEMA flood maps are subject to revision through the Letters of Map Change (LOMC) administrative process. Letters of Map Changes are documents issued by FEMA to revise or amend the flood hazard information shown on the Flood Insurance Rate Map (FIRM). Letters of Map Changes include two types of map changes: Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR). A LOMA is a flood map change based only on the placement of the floodplain boundary relative to existing ground elevations, usually for small areas. A LOMR is a change that often covers a larger area, based on better scientific or technical data or changes to the floodplain and may require a flood map revision.

Adequate Progress (Zone A99) determinations, regulated through 44 CFR part 61.12, provide for lower flood insurance premium rates in areas where FEMA determines that a community has made adequate progress on its construction or reconstruction of a project designed for flood risk reduction. These areas, landward of the flood protection system, are designated as Zone A99 on the FIRM and flood insurance premium rates and floodplain management requirements are generally less than those required in other SFHAs (*e.g.*, Zone AE, Zone AO, and Zone AH). Flood Protection Restoration (Zone AR) determinations, regulated through 44 CFR part 65.14, may provide reduced flood insurance premium rates and floodplain management regulations in areas where FEMA has issued a determination that a project is sufficiently underway to restore a flood protection system to meet 44 CFR part 65.10 accreditation requirements. Areas landward of the flood protection system that is being rehabilitated are designated as Zone AR on the FIRM, and may have base flood elevations (BFE) representing the current risk as if

the flood protection system was not in place.

FEMA accepts, reviews, and tracks applications from levee owners and communities seeking Zone AR designations, Zone A99 designations, and recognition of accredited levee systems on FIRMs. To support a mapping project, levee owners and communities have the responsibility to provide documentation that either a levee system meets the requirements of 44 CFR part 65.10 to have the levee system shown as accredited (*i.e.*, provide protection from the 1-percent-annual-chance flood) or the levee system meets the mapping procedure(s) for non-accredited levee systems.

FEMA collects information about individuals using various forms (paper and electronic), information technology (IT), and call centers to assist states with mitigation planning, as well as to ensure FIRMs are accurate and up to date. Specifically, FEMA collects and uses personally identifiable information (PII) within this system of records to: 1) help the public locate maps for a geographic area of interest; 2) provide responses to the flood mapping products and services customers; 3) track mitigation plan applications and that plan's status with respect to the plan review cycle; 4) process online payments for LOMCs; 5) deliver products to community officials as new final mapping products become available; 6) create IT access accounts and profiles; 7) identify the property relevant to a LOMC request; 8) determine whether a structure is in the floodplain; 9) facilitate customer service surveys/focus groups; and 10) facilitate contact or correspondence between FEMA and other mitigation planning and flood mapping products and services stakeholders.

Consistent with DHS's information sharing mission, information stored in the DHS/FEMA-014 Hazard Mitigation Planning and Flood Mapping Products and Services

System of Records may be shared with other DHS Components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS/FEMA may share information with appropriate Federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

This newly established system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, and similarly, the Judicial Redress Act (JRA) provides a covered person with a statutory right to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/FEMA-014 Hazard Mitigation Planning and Flood Mapping Products and Services Records System of Records.

In accordance with 5 U.S.C. sec. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER: DHS/FEMA-014 Hazard Mitigation Planning and Flood Mapping Products and Services Records System of Records.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: Records are maintained at the FEMA Headquarters in Washington, D.C. and field offices. Additionally, records may be located in the Mapping Information Platform (MIP) system, Map Service Center, LOMA-Logic, and collaboration sites.

Third Party addresses:

Primary Production Server/Data Storage Locations:

DHS Data Center 2 (Operated by HP):

Clarksville, VA

Alleghany Ballistics Laboratory Data Center (Operated by IBM):

Rocket Center, WV

CDS Operations Sites:

Primary Local Operations Site (Operated by IBM)

Fairfax, VA

Secondary Local Operations Site (Operated by Michael Baker International)

Alexandria, VA

Backup Data Storage Sites (in addition to sites already listed above):

DHS Data Center 1

Stennis, MS

Alleghany Ballistics Laboratory (Operated by IBM):

Rocket Center, WV

Iron Mountain Secure Offsite Storage

Various – Specific U.S. location(s) in use not disclosed

SYSTEM MANAGER(S): Program Management, Risk Management Program, Federal Insurance and Mitigation Administration, 400 C Street, SW, Washington, D.C. 20472.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: The National Flood Insurance Act of 1968, as amended (42 U.S.C. sec, 4001 et seq.), 44 CFR parts 59-72, the Disaster Mitigation Act of 2000 (DMA 2000), and Fiscal Year 2009 Department of Homeland Security Appropriations Act (Pub. L. 110-329).

PURPOSE(S) OF THE SYSTEM: The purpose of this system is to help the public locate flood insurance risk maps for a geographic area of interest; provide responses to the customers contacting FEMA's call centers or helpdesk via telephone or online chat; track mitigation plan applications and the plan's status with respect to the plan review cycle; process online payments for LOMCs; deliver products to community officials as new final mapping products become available; create IT access accounts and profiles; identify the property relevant to a LOMC request; determine whether a structure is in a floodplain; and facilitate contact or correspondence between FEMA and other stakeholders providing mitigation planning and flood mapping products and services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Members of the general public, including: property owners, developers, investors, and their representatives; realtors; certifiers, including but not limited to Registered Professional Engineers and Licensed Land Surveyors; state or local government officials with

authority over a community's floodplain management activities, which includes Mapping Review Partners (MRP); potential or confirmed respondents to customer service surveys/focus groups; and FEMA staff and stakeholders registered to use FEMA's information technology systems and collaboration sites.

CATEGORIES OF RECORDS IN THE SYSTEM:

- Full name;
- Position or title;
- Addresses (mailing and property);
- Email addresses;
- Company or community name;
- Organization or agency name;
- Six-digit NFIP community number;
- Telephone number;
- Fax number;
- Professional license number;
- Professional license expiration date;
- Signature;
- Signature date;
- Fill placement and date;
- Type of construction;
- Elevation data;
- Base Flood Elevation (BFE) data;

- Legal property description;
- FEMA region number (1–10);
- Transcripts of conversations with FEMA call centers or helpdesk including name, address, phone number, email address, caller type (*e.g.*, property owner, realtor); chat subject; and chat subject category;
- Bank name and account information including electronic funds transfer, and credit/debit card account information;
- Payment confirmation number;
- User account creation and access information:
 - Username;
 - Activation code;
 - Password;
 - Roles and responsibilities;
 - Challenge questions and answers; and
 - System permissions or permission levels.
- Voluntary responses to customer satisfaction and experience surveys and focus groups, including demographic information about the individual.

RECORD SOURCE CATEGORIES: Records are obtained from individuals (*e.g.*, homeowners, investors, and property developers); LOMC Certifiers (*e.g.*, Registered Professional Engineers and Licensed Land Surveyors); state or local government officials with authority over a community’s floodplain management activities, which includes MRPs; FEMA staff and stakeholders registered to use SharePoint information and

collaboration portals; the FEMA Community Information System (CIS) system; and the cloud-based LOMA-LOGIC tool.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND PURPOSES OF SUCH USES: In addition to those disclosures generally permitted under 5 U.S.C. sec. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. sec. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including the U.S. Attorneys Offices, or other Federal agency conducting litigation or proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity, only when DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. sec. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS determines that information from this system of records is reasonably necessary and otherwise compatible with the purpose of collection to assist another federal recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach; or

2. DHS suspects or has confirmed that there has been a breach of this system of records; and (a) DHS has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, DHS (including its information systems, programs, and operations), the Federal Government, or national security; and (b) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to

the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To state and local governments pursuant to signed agreements allowing such governments to assist FEMA in making LOMC determinations.

I. To the United States Department of the Treasury for the processing of payments for product and services.

J. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: DHS/FEMA stores records in this system electronically or on paper in secure facilities in a locked drawer

behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: DHS/FEMA

retrieves records by name, address information, legal description of property, order number, and account number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF

RECORDS: In accordance with NARA authority N1-311-86-1, item 2.A.2.c. and FEMA

Records Disposition Schedule FIA-2-1, 2 and 3, FEMA stores LOMC data in an active mode for 2 years after which the information is retired to the Federal Records Center

(FRC). FEMA destroys the information 20 years after its final determination or map

revision date. Pursuant to NARA authority N1-311-86-1, items 2.A.3., FEMA destroys

digital preliminary flood maps five years after FEMA issues a flood elevation

determination or insurance rate map and flood elevation determination (or insurance rate)

map are cut off when superseded, transfer directly to the National Archives 5 years after

cutoff for permanent storage pursuant to NARA authority N1-311-86-1, Item 2A4,

FEMA Document Disposition Schedule at FIA-3.

Additionally, FEMA retains both paper and digital copies of effective FIRMs

permanently, stores FEMA Information Exchange (FMIX) chat session records

indefinitely, and deletes the last 4 digits of the credit card or bank account number and

Treasury's payment confirmation information after 2 years. See FEMA Records

Disposition Schedule at FIA-4.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DHS/FEMA safeguards records in this system according to applicable rules and policies,

including all applicable DHS automated systems security and access policies. FEMA has imposed strict controls to minimize the risk of compromising the stored information.

Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information in furtherance of the performance of their official duties, and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES: Individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and Headquarters or FEMA's FOIA Officer, whose contact information can be found at <http://www.dhs.gov/foia> under "Contacts Information." If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, Washington, D.C. 20528-0655. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about you may be available under the Freedom of Information Act.

When an individual is seeking records about himself or herself from this system of records or any other Departmental system of records, the individual's request must conform to the Privacy Act regulations set forth in 6 CFR part 5. The individual must first verify his or her identity, meaning that the individual must provide his or her full name, current address, and date and place of birth. The individual must sign the request, and the individual's signature must either be notarized or submitted under 28 U.S.C. sec. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, an individual may obtain forms for this

purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, <http://www.dhs.gov/foia> or 1-866-431-0486. In addition, the individual should:

- Explain why the individual believes the Department would have information on him or her;
- Identify which component(s) of the Department the individual believes may have the information about him or her;
- Specify when the individual believes the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records;

If an individual's request is seeking records pertaining to another living individual, the first individual must include a statement from the second individual certifying his/her agreement for the first individual to access his or her records.

Without the above information, the component(s) may not be able to conduct an effective search, and the individual's request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES: For records covered by the Privacy Act or covered JRA records, see "Record Access Procedures" above.

NOTIFICATION PROCEDURES: See "Record Access Procedures."

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: "Letter of Map Amendment (LOMA), DHS/FEMA/NFIP/LOMA-1" system of records, 71 FR 7990 (Feb. 15, 2006).

Philip S. Kaplan,
Chief Privacy Officer,
Department of Homeland Security.

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